



PRIM'AWLA TAL-QORTI ĊIVILI

ONOR. IMHALLEF MARK SIMIANA, LL.D

Rikors Numru 94/2025 MS

Melars Group Limited

Vs.

Kuraturi Deputati sabiex jirrapreżentaw l-assenti Murat Seitnepesov

Illum, 14 ta' Marzu 2025

Kawża Numru: 3

1. B'rikors preżentat fil-5 ta' Frar 2025, l-attriċi talbet lill-Qorti tiddikjara s-sentenza fl-ismijiet Murat Seitnepesov vs. Melars Group Ltd (numru ta' referenza P/13965/2012-AARP/155/2023) tal-Court of Justice – Criminal Appeal Review Chamber datata 14 t'April 2023, kif ikkonfermata mill-Federal Court, First Court of Criminal Law fl-Iżvizzera fid-29 ta' Novembru 2023, eżekutorja għewwa Malta u dan ai termini tal-artikolu 38(1) et seq tal-Konvenzjoni dwar il-Ġurisdizzjoni u r-Rikonossiment u l-Eżekuzzjoni ta' Sentenzi f'Materji Ċivili u Kummerċjali (Lugano Convention).
2. L-artikolu 38(1) tal-Konvenzjoni ċitata jgħid hekk:

A judgment given in a State bound by this Convention and enforceable in that State shall be enforced in another State bound by this Convention when, on the application of any interested party, it has been declared enforceable there.

3. Imbagħad l-artikolu 40(3) jgħid li: «*The documents referred to in Article 53 shall be attached to the application*». L-artikolu 41 jispjega:

The judgment shall be declared enforceable immediately on completion of the formalities in Article 53 without any review under Articles 34 and 35. The party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

4. L-artikolu 53 jgħid:

1. A party seeking recognition or applying for a declaration of enforceability shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity.

2. A party applying for a declaration of enforceability shall also produce the certificate referred to in Article 54, without prejudice to Article 55.

5. L-attriċi ressqet kopji awtentikati u apostillati tad-deċiżjonijiet mogħtija mill-Qrati Żvizzeri, li permezz tagħhom il-konvenut instab ħati ta' frodi u kkundannat sentenza ta' priġunerija ta' tmintax-il xahar, flimkien ma' perjodu sospiż ta' *probation*. Il-konvenut ġie wkoll ikkundannat iħallas lill-attriċi kumpens materjali f'somma li hija indikata fl-istess deċiżjoni.
6. Il-fatt li l-Qrati li pronunzjaw is-sentenzi li dwarhom l-attriċi trid dikjarazzjoni ta' enforzabilità kienu qrati ta' ġurisdizzjoni kriminali mhux ta' xkiel għal din it-talba tagħha. Kemm hu hekk, l-artikolu 1(1) tal-Konvenzjoni jgħid: «*This Convention shall apply in civil and commercial matters whatever the nature of the court or tribunal*». F'dan ir-rigward insibu:

According to Article 1(1), Brussels 2012 applies 'in civil and commercial matters whatever the nature of the court or tribunal'¹. So what is important is whether the 'matter' is civil or commercial, not whether the court is civil or commercial. In

¹ Lugano 2007, Article 1(1) is the same.

some Member States, it is possible for the victim of a crime (or perhaps a member of the victim's family) to join a civil claim for damages or restitution to the criminal proceedings. The civil claim must be against the accused and must be based on the crime. A civil claim is thus made in the course of the criminal trial. If successful, it will result in a civil judgment in addition to the criminal one.²

7. L-attriċi ressqet ukoll iċ-ċertifikat taħt *Annex V* tal-Konvenzjoni, kif meħtieġ minnha.
8. Minn eżami tad-dispożizzjonijiet diġà ċitati, jirrizulta li dan huwa l-uniku sħarriġ li jista' jsir minn din il-Qorti f'dan l-istadju, billi sħarriġ dwar jekk jirrizultawx raġunijiet li jwasslu għar-rifjut tar-rikonoxximent tas-sentenza estera taħt l-artikoli 34 u 35 tal-Konvenzjoni jista' jsir biss fuq appell minn din id-deċiżjoni.
9. Għal dawn ir-raġunijiet il-Qorti qiegħda tilqa' t-talba magħmula mill-attriċi fir-rikors tagħha tal-5 ta' Frar 2025, u tordna n-notifika tar-rikors imsemmi, tad-dokumenti mehmuża magħha u ta' dan il-provvediment lill-konvenut.

L-ispejjeż jithallsu mill-konvenut, bla ħsara għad-drittijiet tal-kuraturi deputati.

Onor. Mark Simiana, LL.D

Imħallef

Lydia Ellul

Deputat Registratur

² **Trevor Hartley**, Civil Jurisdiction and Judgments in Europe, (2nd Edition), pġa.148.